

705/39
Notice of Allowability

Application No.

10/066,597

Examiner

JEAN JANVIER

Applicant(s)

WEBB ET AL.

Art Unit

3688

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to 05/05/09.
2. ☒ The allowed claim(s) is/are 1-33.
3. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) ☐ All b) ☐ Some* c) ☐ None of the:
 1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

* Certified copies not received: _____

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.
THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.

4. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
5. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
 - (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
 - 1) ☐ hereto or 2) ☐ to Paper No./Mail Date _____
 - (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date _____Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
6. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

Attachment(s)

1. ☒ Notice of References Cited (PTO-892)
2. ☐ Notice of Draftperson's Patent Drawing Review (PTO-948)
3. ☐ Information Disclosure Statements (PTO/SB/08),
Paper No./Mail Date _____
4. ☐ Examiner's Comment Regarding Requirement for Deposit
of Biological Material
5. ☐ Notice of Informal Patent Application
6. ☐ Interview Summary (PTO-413),
Paper No./Mail Date _____
7. ☒ Examiner's Amendment/Comment
8. ☒ Examiner's Statement of Reasons for Allowance
9. ☐ Other _____

/Jean Janvier/
Primary Examiner, Art Unit 3688

05/18/05

After the Board's Decision

EXAMINER'S AMENDMENT

An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it MUST be submitted no later than the payment of the issue fee.

The Application has been amended as follows:

Please amend claim 14 as follows-

In claim 14, line 15, after "program" and before "said", please delete "at" and replace it with - -by- -.

In claim 22, line 7, after "customers" and before "said", please delete "with" and replace it with - -by- -.

In claim 22, line 8, after "interacting" and before "each", please delete "by".

REASONS FOR ALLOWANCE

The following is an Examiner's statement of reasons for allowance:

Briefly stated, Burke, in USP 6,112,191 (the primary reference), discloses a system for collecting customers' change or excess payments (customers' differences) from a plurality of retailers' POSes, storing the collected differences in individual customers' accounts (personal account) and transferring the collected or accumulated differences to a PA (provider) for investment into a pre-selected (single) mutual fund. It was herein concluded that the collected differences from the customers are bundled together, combined together or merged, in the form

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of a global account, collective account, consolidated account, aggregated account, shared account, bucket (i.e. merging or single account), for investment into a mutual fund (i.e. collective investment).

However, the Board Decision, recorded on January 23, 2009, reversed the Examiner's Actions on all counts and agreed with the Applicant that **"claim 1 requires both a "merging account" and a "predetermined single mutual fund" as well" and concluded therefrom that the "merging account" cannot also serve as the "predetermined single mutual fund" (as if the "predetermined single mutual fund" was treated as a separate account).**

Here, the Examiner notes that it common practice in the financial industry for a brokerage firm to collect funds (investment money), from a plurality of customers or investors, to be invested into a particular mutual fund, stock, securities and so on. The firm merges (pools together), for example, all the funds, to be invested in the particular mutual fund, into a single bucket or global account (collective account, consolidated account), containing the investments or funds from the plurality of different customers or investors, for investment into the particular mutual fund, thereby facilitating processing and management of the system (TSP and 401K investment practices cited in the Examiner's prior responses are good examples here).

Furthermore, the Examiner also notes that the Applicant had used the phrase "collective account" in the claims, which was subsequently replaced with "merging account" in order to overcome the prior art rejection. It appears here that the Applicant considers **"collective account" to be different from "merging account".**

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Having said that, the claims are herein being allowed in view of the Board's Decision, which stated in general **that the prior art does not teach a "merging account" as recited in the claims**. Thus, claims 1-33 are said to be allowable over the prior art of record.

Any comments considered necessary by Applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Lisa Rapaport, in an article "**Oakland, Calif.-Based Web Site Rewards Surfers**" published on October 19, 1999, discloses a system for referring members to company sites for product registration and the members' reward money may be spent online, stored in a Cybergold **account** for future online purchases or **transferred** to a Visa card or bank account related to the customers.

Any inquiry concerning this communication from the Examiner should be directed to Jean D. Janvier, whose telephone number is (571) 272-6719. The aforementioned can normally be reached Monday-Thursday from 10:00AM to 6:00 PM EST. If attempts to reach the Examiner by telephone are unsuccessful, the Examiner's Supervisor, Mr. James Myhre, can be reached at (571)272- 6722

Non-Official- 571-273-6719.

Official Draft : 571-273-8300

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/J. J./

/Jean Janvier/

Primary Examiner, Art Unit 3688